

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

STATE OF TENNESSEE, *ex rel.*
ROBERT E. COOPER, JR., ATTORNEY
GENERAL and REPORTER,

Plaintiff,

v.

ELMER VIRULA, individually and doing
business as TPS TAX PROFESSIONAL
SERVICES, INC. and OFFICE
PROFESSIONAL SERVICES, INC.; TPS
TAX PROFESSIONAL SERVICES, INC.,
a Tennessee corporation; and OFFICE
PROFESSIONAL SERVICES, INC., a
Tennessee corporation,

Defendants.

No. 08C651

**AGREED ORDER FOR A TEMPORARY INJUNCTION
ENTERED BY CONSENT OF THE DEFENDANTS**

The State's Motion for Statutory Temporary Injunction was scheduled to be heard on Tuesday, March 11, 2008 at 9:00 a.m. After service of the State's Complaint and Motion on the Defendants on March 5, 2008, the Defendants consented to entry of this **Agreed Order For Temporary Injunction Entered by Consent of the Defendants** ("Agreed Injunction Order") on the terms and conditions set out herein and defined in this Agreed Injunction Order. Based upon the agreement of Tennessee Attorney General ("State") and each of the Defendants, as set out below, pursuant to Tenn. Code Ann. 47-18-108(a)(1) & (4),

IT IS ORDERED ADJUDGED AND DECREED that:

1. **Denial of Wrongdoing by Defendants.** Each Defendant denies any wrongdoing in the conduct of its/his/their business. Further, this Agreed Injunction Order does not constitute any evidence or admission of any kind, nor any finding of fact nor a determination of law by this Court, that any of the Defendants have engaged in any act or practice declared unlawful or illegal (criminally or civilly), nor in any other manner in violation of any laws, regulations, or rules of the State of Tennessee, or any other state or of the United States of America.

2. **Jurisdiction and Venue.** This Court has jurisdiction of the subject matter of this case and the parties pursuant to Tenn. Code Ann. §§ 23-3-103(c)(2) and 47-18-108. Venue is proper in Davidson County pursuant to Tenn. Code Ann. §§ 23-3-103(c)(2)(A) and (B) and 47-18-108(a)(3), because it is the county where the conduct alleged in the complaint took place.

3. **Defendants Consent to Issuance of Injunction.** For the purposes of entry of this statutory temporary injunction, the Defendants consent to the Court's jurisdiction and authority to enter this Agreed Injunction Order.

4. **No bond required.** No bond is required of the State of Tennessee for the issuance of this statutory temporary injunction pursuant to Tenn. Code Ann. §§ 23-3-103(c)(3) and 47-18-108(a)(4).

5. **Agreed Temporary Injunction.** Upon the consent of the Defendants and under Tenn. Code Ann. §§ 47-18-108(a)(1) & (4), Defendants Elmer Virula, TPS Tax Professional Services, Inc., and Office Professional Services, Inc. and all of their officers, directors, employees, agents, successors and assigns and other persons in active concert or participation with the Defendants, are enjoined from engaging, directly or indirectly, in any acts which are

unlawful and further require Defendants to satisfy the affirmative requirements in the State's Complaint and Motion, including but not limited to, the following:

- (A) Defendants shall be strictly prohibited from engaging in the "practice of law" or "law business" as defined by Tenn. Code Ann. § 23-3-101 in the State of Tennessee.
- (B) Defendants shall be strictly prohibited from violating the Unauthorized Practice and Improper Conduct statutes, Tenn. Code Ann. § 23-3-101 *et seq.*
- (C) Defendants shall be strictly prohibited from engaging in any unfair or deceptive acts or practices in the conduct of trade or commerce and shall fully comply with all applicable provisions of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.*
- (D) Defendants shall be strictly prohibited from violating the Notaries Public statute, Tenn. Code Ann. § 8-16-401 *et seq.*

Without limiting the scope of paragraphs (A)-(D) above,

- (E) Defendants shall be strictly prohibited from representing in any manner from or within Tennessee or to Tennessee consumers that Defendant Elmer Virula is a certified public accountant if Defendant Virula is not a certified public accountant in the State of Tennessee in good standing at the time of making the representation.
- (F) Defendants shall be strictly prohibited from, directly or indirectly, representing, stating, promoting, advertising, claiming or implying that Defendant Virula is an "attorney," "attorney at law," "lawyer," "licenciado," or term or phrase of similar import, if Defendant Virula does not possess a valid license to practice law in the State of Tennessee in good standing at the time of making the representation.
- (G) Defendant Virula shall be strictly prohibited from making or preparing any filings to be used in any court in the State of Tennessee on behalf of any person or business other than himself.
- (H) Defendants shall be strictly prohibited from representing from or within Tennessee or to Tennessee consumers that Defendant Elmer Virula or any employees or agents of Defendant(s)' companies can appear as an advocate in any representative capacity before any court, commission, referee or any body, board, committee or commission constituted by law or having authority to settle controversies or soliciting clients directly or indirectly to provide such services if such an individual is not licensed to practice law in good standing in Tennessee.
- (I) Defendants shall be strictly prohibited from giving any legal advice regarding any secular law topic including but not limited to immigration, marriage, and divorce.

- (J) Defendants shall be strictly prohibited from misleading consumers in any way, including but not limited to representations regarding the legality of certain actions and the qualifications of Defendant Elmer Virula.
- (K) Defendants shall be strictly prohibited from falsifying any government documents, including but not limited to marriage licenses.
- (L) Defendants shall be strictly prohibited from creating or producing in any manner any documents which purport to be issued by a governmental agency or entity.
- (M) Defendants shall be strictly prohibited from representing or implying they/he can offer marriage licenses to consumers if they legally can not.
- (N) Defendants shall be strictly prohibited from advertising, promoting or offering for sale any "marriage license" (or term or phrase of similar import) in the State of Tennessee or in whole or in part from Tennessee or to any Tennessee consumer.
- (O) Defendants shall be strictly prohibited from stating a consumer has been married at a particular location or address when such is not the case.
- (P) Defendants shall be strictly prohibited from advertising as a "notario publico", "notario publica" (or term or phrase of similar import) without a disclaimer of conspicuous size in Spanish and English stating the following: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF TENNESSEE, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."
- (Q) Defendants shall be strictly prohibited from advising or assisting in selecting or completing forms affecting or relating to a person's immigration status without a license to practice law in Tennessee.
- (R) Defendants shall be strictly prohibited from representing or advertising that the notary public is an immigration consultant, immigration paralegal, or expert on immigration matters unless the notary public is an accredited representative of an organization recognized by the board of immigration appeals pursuant to 8 CFR § 292.2(a-e) or any subsequent federal law.
- (S) Defendants shall be strictly prohibited from accepting or depositing into his and/or their accounts any monies from any person for legal services, marriages or marriage licenses or certificates or accounting services to be performed by Defendants.
- (T) Defendants shall place any money received for legal services, marriages or marriage licenses or certificates or accounting services from any consumer in an escrow account at a bank of Defendants' choosing to be held until an order granting or denying restitution for consumers is entered.

- (U) Defendants shall be strictly prohibited from transferring or otherwise removing any assets or monies from his or their offices or any bank accounts that contain funds relating to his/their representations of persons as an attorney or certified public accountant, or relating to marriages, marriage certificates or licenses, and/or any escrow-type funds. Further, within ten (10) business days after the entry of this Agreed Injunction Order, Defendants shall be required to affirmatively provide the Court and the State with an accounting of all assets in his/their possession relating to his/their representation of clients and a list of all bank accounts and the amounts in those accounts.
- (V) Defendants shall be prohibited from representing or implying to a consumer that they will receive goods or services and then fail to deliver those goods or services within the time frame promised or promoted.
- (W) Defendants shall be required to affirmatively maintain and protect any documents or records in their custody care or control relating to any legal services, accounting services, or marriages. Further, Defendants' counsel shall provide to the State written authorization from the applicable Defendants to obtain access to any documents or records previously seized or obtained by any other governmental agency or entity, including but not limited to the Internal Revenue Service and the Federal Bureau of Investigation.

6. Exclusion From Injunction - Translation and Tax Return Preparation.

Nothing in this Agreed Injunction Order is intended to prohibit Defendants from offering any lawfully permitted translation or tax preparation services to consumers in whole or in part in Tennessee.

7. Consumer records. By no later than ten (10) business days following the date of the entry of this Agreed Injunction Order, Defendants shall turn over and/or provide all consumer records, files and documents of Defendants relating to Tennessee consumers or any consumers who retained Defendants' services in whole or in part in the State of Tennessee to Charlie Shinn, Investigator or his designee, by delivering the files and/or documents during regular business hours between 8:00 a.m. and 4:30 p.m. (Central) to the Investigative Services Unit, Tennessee Attorney General's Office, 425 Fifth Avenue North, Nashville, Tennessee 37243. The State agrees to work with Defendants to produce the documents in such a manner to minimize disruption in the use of said records. To protect the privacy of consumers in these

records, the Court hereby orders that all personally identifiable information contained in these records shall be treated as confidential. Agreement to this production shall not constitute a waiver of any rights to oppose production of any of the documents based any rights that each of the Defendants may have to each document. Opposition of production of particular documents shall be made by the submission of a privilege log and *in camera* review by the Court.

8. **Financial Records.** By no later than ten (10) business days after entry of the Court's Agreed Order, Defendants shall provide the Court, and a copy to Plaintiff's counsel, a detailed accounting of all assets in Defendants' possession relating to Defendants' businesses and a list of all bank accounts, bank addresses, bank telephone numbers, bank contact names, bank account numbers, and the amounts currently held in those accounts and held since the date Defendants commenced trade or commerce in the state of Tennessee as of the date of the Court's Order. Said accounting shall be provided along with a sworn affidavit of an officer of each of the Defendants confirming, their accuracy and completeness and shall be filed with the Court. Further, a copy (or copies) shall be provided in the same time frame to Charlie Shinn, Investigator, or his designee, by delivering the accounting and sworn statement during regular business hours between 8:00 a.m. and 4:30 p.m. (Central) to the Investigative Services Unit, Tennessee Attorney General's Office, 425 Fifth Avenue North, Nashville, Tennessee 37243. Agreement to this production shall not constitute a waiver of any rights to oppose production of any of the documents based any rights that each of the Defendants may have to each document. Opposition of production of particular documents shall be made by the submission of a privilege log and *in camera* review by the Court.

9. **Hearing.** Upon motion of the State, the court shall set an expedited hearing for consideration of whether based upon the financial information provided under this Agreed Injunction Order, it is appropriate for monies to be placed into a court account by the Defendants for possible consumer restitution pending a final determination in this matter. The parties may propose an agreed order to resolve this hearing.

10. **Receiver.** This Agreed Injunction Order expressly reserves for a future hearing a determination regarding the appointment of a receiver for the safekeeping, collection, management, and disposition of property in this litigation.

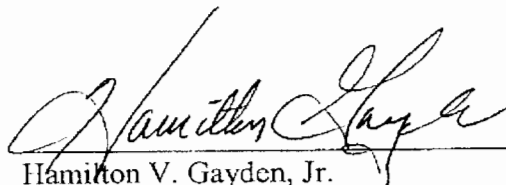
11. **Full Force and Effect.** This Agreed Injunction Order shall remain in full force and effect until completion of a trial on the merits unless otherwise expressly ordered in writing by this Court. No further service or notice shall be required by the State on Corporate Defendants or Elmer Virula.

12. **Applicability of Order.** Defendants Elmer Virula, TPS Tax Professional Services, Inc., and Office Professional Service, Inc., shall provide notice of this Agreed Order to each of their officers, directors, employees, agents and successors and assigns and other persons in active concert or participation with the Defendants. Defendant Virula will submit a list of the persons and entities to whom notice has been delivered.

13. **State of Tennessee Attorneys' Fees.** This Order expressly reserves Defendants payment of attorneys' fees and costs to the State of Tennessee relating to the State's Motions and this Agreed Order for a future hearing. Defendants deny any liability for said fees and costs.

14. **Court Costs.** No costs shall be taxed to the State as provided by Tenn. Code Ann. §§ 47-18-108(a)(4) and 47-18-116.

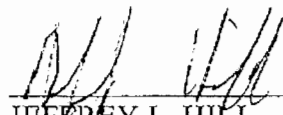
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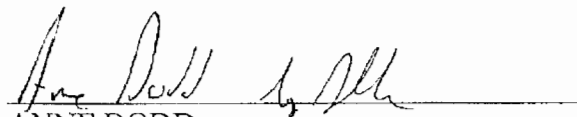
Hamilton V. Gayden, Jr.
Circuit Court Judge
20th Judicial District: Div. 1

APPROVED FOR ENTRY:

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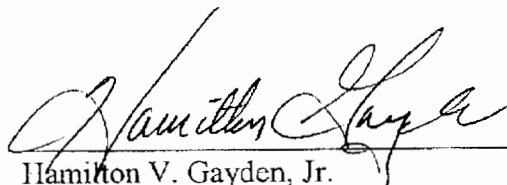


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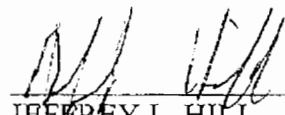
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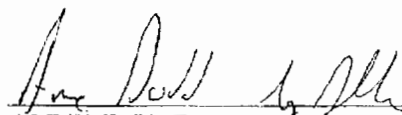
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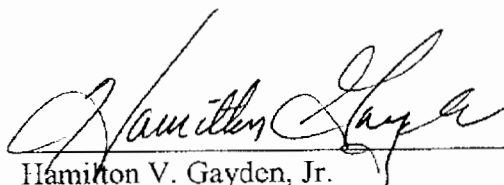
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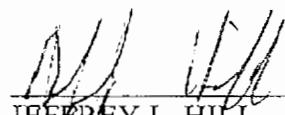
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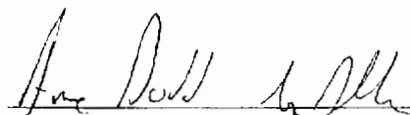
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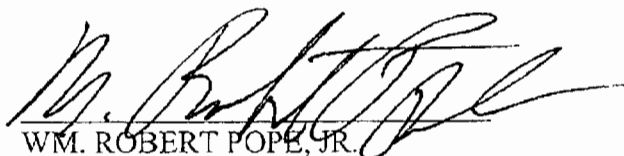


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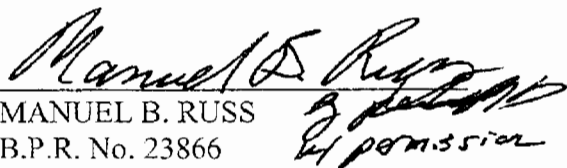


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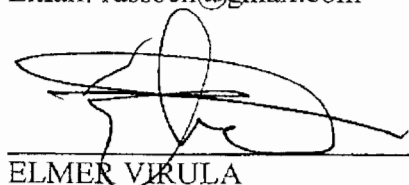
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